



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN SUPPORT OF:

H.B. NO. 5525: AN ACT CONCERNING CHILD PORNOGRAPHY

JOINT COMMITTEE ON JUDICIARY
March 12, 2014

The Division of Criminal Justice respectfully recommends the Committee's JOINT FAVORABLE REPORT for H.B. No. 5525, An Act Concerning Child Pornography. The Division wishes to express its appreciation to the Committee for raising this bill, which is among our 2014 Legislative Recommendations.

The purpose of this bill is two-fold: (1) to update the statutes to reflect the current technology through which child pornography is produced and distributed; and (2) to more properly address the severity of the criminal conduct involved and adjust the corresponding penalties.

As is the case with so many other facets of today's society, the laws concerning the possession of child pornography no longer reflect advances in technology. While videotape was once considered a technological wonder, it is rapidly becoming obsolete. Such is also the case to large extent with what we call photographs. Digital images and digital recordings are now the norm. H.B. No. 5525 revises the child pornography statutes to reflect this.

The second aspect of the bill deals with how the images at question in a child pornography case are essentially counted. The problems with the existing law are best explained by offering an example. Under our current law, a videotape – or the same material produced as a digital file – is considered one "image." Thus, the possession of such material – regardless of the duration or the number of individual incidents or acts depicted on the recording – constitutes Possession of Child Pornography in the Third Degree. As such a two-hour video in which numerous children are assaulted numerous times only constitutes a class D felony.

By the same token, under the current law the possession same material as individual images -- essentially what we once called a photograph or print -- would be counted on the basis of the number of individual images and the degree of Possession of Child Pornography determined accordingly. At twenty images, the crime becomes possession in the second degree, a class C felony punishable by up to ten years, and at fifty images it becomes possession in the first degree, a class B felony with a maximum penalty of 20 years in prison.

The federal criminal justice system addresses this issue in its sentencing guidelines. The federal sentencing guidelines count every video containing child pornography as 75 images and subjects the person possessing the video to a two-level increase, unless the recording is substantially longer than five minutes in duration in which case the guideline range is subject to an even higher increase.

The Division of Criminal Justice has examined the federal approach and believes that while it is appropriate to treat videos (or their digital equivalents) more severely than still photographs, classifying all videos that are not substantially longer than five minutes the same is not appropriate. The Division believes a more appropriate approach is to assess the severity of the conduct involved in terms of the number of victims and/or the number of acts depicted on the videotape, digital file or other format involved. H.B. No. 5525 bases the penalty on the number of acts and/or number of victims, which is a more appropriate means of assessing the severity of the criminal conduct involved and establishing the corresponding penalty.

The Division recognizes the difficulty in drafting specific language regarding these issues. What would appear to be a simple matter of counting images, files, etc., can become quite complicated when translated into statutory language. For this reason we stand ready to work with the Committee and interested parties to clarify the language, if necessary.

In conclusion, the Division respectfully requests and recommends the Committee's JOINT FAVORABLE REPORT for H.B. No. 5525. We would be happy to provide any additional information the Committee might require or to answer any questions you might have. Thank you for providing us with this opportunity to present this legislation on this important matter.